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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,684	03/17/2004	Henning Steg	NI 163	5377
27956	7590	03/24/2006	EXAMINER	
KLAUS J. BACH 4407 TWIN OAKS DRIVE MURRYSVILLE, PA 15668			LEE, EDMUND H	
			ART UNIT	PAPER NUMBER
			1732	
DATE MAILED: 03/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

CV

<b>Office Action Summary</b>	Application No. 10/802,684	Applicant(s) STEG, HENNING	
	Examiner EDMUND H. LEE	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "paste-like" (cl 1, ln 2) is indefinite because the metes and bounds of the phrase are unascertainable.

The phrase "particularly food products" (cl 1, ln 3) is indefinite because it is unclear whether or not it is a food product.

Correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kehe et al (USPN 4774134). Kehe et al teach the claimed process as evidenced at col 2, lns 24-30 and 38-45; and figs 1-4.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3,4, and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kehe et al (USPN 4774134). The above teachings of Kehe et al are incorporated hereinafter. In regard to heating the foil upon placement into the mold, such is well-known in the molding art in order to ensure that the sheet is softened for a reshaping step. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to heat the foil of Kehe et al upon placing it in the mold of Kehe et al in order to ensure that the sheet is soft for the subsequent molding step. In regard to claim 4, such is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative feature or step of the claimed process. Further, the claimed design is well-known in the closure/cap art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a foil having the claimed design in the process of Kehe et al in order to form a diverse product. In regard to claim 6-7 and 9, temperature is well-known in the molding art as an important molding parameter and the desired temperature would have been obviously and readily determined through routine experimentation by one having ordinary skill in the art at the time the invention was made. Further, the claimed temperature is generally well-known in the molding art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the claimed temperature in the process of Kehe et al in order to form a high quality product. In regard to claim 8, such is well-known in the molding art as methods for keeping a sheet soft. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to blow hot air onto the foil of

Kehe et al in order to maintain the softened state of the foil during transferring. In regard to claim 10, such is well-known in the molding art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to create an inventory of the foil of Kehe et al and to keep them in a temperature controlled environment in order to reduce molding complexity and to ensure high quality products.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following US patent show the state of the art: 5037595..

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571.272.1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


EDMUND H. LEE

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Primary Examiner  
Art Unit 1732

EHL

  
2/20/06